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REMARKS/ARGUMENTS

The Examiner's Office Action of November 30, 2004 has been received and its contents reviewed. Applicant would like to thank the Examiner for the consideration given to the above-identified application, and for indicating claims 9-13 as containing allowable subject matter.

Claims 1-29 were pending prior to this Amendment. By this Amendment, paragraph [0008] has been amended for purposes of clarity, and paragraphs [0045] and [0060] have been amended to correct minor typographical errors. Claims 2-9 and 11-12 have been amended, claims 1 and 14-29 have been cancelled, and new claims 30-36 have been added. Accordingly, claims 2-13 and 30-36 are pending for consideration, of which claims 9 and 11 are independent.

Turning now to the detailed Office Action, claims 2, 5, 6, 9, 14-16, 20 and 25 stand objected to because the Examiner deems the language "adapted to" to be functional language which does not constitute a limitation in any patentable sense. In response, Applicant respectfully direct the Examiner's attention to MPEP §2173.05(g), a portion of the text from the MPEP is summarized below:

2173.05(g) Functional Limitations

A functional limitation is an attempt to define something by what it does, rather than by what it is (e.g., as evidenced by its specific structure or specific ingredients). There is nothing inherently wrong with defining some part of an invention in functional terms. Functional language does not, in and of itself, render a claim improper. *In re Swinehart*, 439 F.2d 210, 169 USPQ 226 (CCPA 1971).

A functional limitation must be evaluated and considered, just like any other limitation of the claim, for what it fairly conveys to a person of ordinary skill in the pertinent art in the context in which it is used. A functional limitation is often used in association with an element, ingredient, or step of a process to define a particular capability or purpose that is served by the recited element, ingredient or step. Whether or not the functional limitation complies with 35 U.S.C. 112, second paragraph, is a different issue from whether the limitation is properly supported under 35 U.S.C. 112, first paragraph or is distinguished over the prior art. A few examples are set forth below to illustrate situations where the issue of whether a functional limitation complies with 35 U.S.C. 112, second paragraph, was considered.

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... In a claim that was directed to a kit of component parts capable of being assembled, the Court held that limitations such as "members adapted to be positioned" and "portions . . . being resiliently dilatable whereby said housing may be slidably positioned" serve to precisely define present structural attributes of interrelated component parts of the claimed assembly. *In re Venezia*, 530 F.2d 956, 189 USPQ 149 (CCPA 1976).

According to the MPEP, the language "adapted to" in Applicant's claims 2, 5, 6, 9, 14-16, 20 and 25 is proper.

Claims 1-19 stand rejected under 35 U.S.C. §112, second paragraph, as indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Particularly, with respect to claim 1, the Examiner asserts that the language "if the feeding assembly and the feed reservoir are disengaged" is conditional and ambiguous. With respect to claim 8, the Examiner contends that "an insect is not capable of fear or doubt", hence the recitation of an "insect deterrent" is unclear. With respect to claim 9, the Examiner objects to the language "unreleasably engaged" because the Examiner contends that with sufficient force, a bond could be overcome. With respect to claim 11, the Examiner objects to the language "reversible movement ... is not possible" because the Examiner believes that with enough force reversible movement would be possible. With respect to claim 12, the limitation "the assembling" lacks antecedent basis.

In response, Applicant has amended claims 8, 11 and 12, as shown above, to overcome the rejections. Moreover, claims 9 and 11, herein amended to include the limitation of claim 1, incorporate the Examiner's suggestion in paragraph 4 of the Office Action relative to the word "if." The Examiner is thanked for all the suggestions given in the Office Action to amend the rejected claims.

With respect to the rejection of claim 9, Applicant respectfully directs the Examiner's attention to paragraph [0049] bridging pages 9 and 10. It is stated therein that the term unreleasably means that it would take undue forces to disassemble the feeding tube assembly from the reservoir. Such undue forces, if used in the disassembly, would damage the feeder beyond its designed mode of use. According to MPEP 608.01(o) (page 600-81, Rev. 2, May 2004), "a term used in the claims may be given a special meaning in the description". Still

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further, according to MPEP §2111.02 (III), applicant may be his/her own lexicographer. As Applicant clearly defines the meaning of "unreleasably", the Examiner's contention that, even the strongest bond between two elements can be broken with sufficient force, is an improper reading of the language "unreleasably" in Applicant's pending claims and would be against the spirit of Applicant's invention.

With respect to claims 1, 15 and 19, these claims have been cancelled as shown above. Hence, the §112, second paragraph rejection of these claims is rendered moot.

Claims 1-8 stand rejected under 35 U.S.C. §102(e) as anticipated by Pappas et al. (U.S. Patent No. 6,758,165 – hereafter Pappas). Further, claims 15, 16, 20 and 24 stand rejected under 35 U.S.C. §102(e) as anticipated by Salvia. Still further, claims 25, 26, 28 and 29 stand rejected under 35 U.S.C. §103(a) as unpatentable over Pappas. Finally, claims 17, 18, 21-23 and 27 stand rejected under 35 U.S.C. §103(a) as unpatentable over Salvia in view of Pappas.

In the interest of expediting the allowance of this application, Applicant has cancelled claims 1 and 14-29, as shown above, without prejudice or disclaimer to the subject matter disclosed therein. Applicant reserves the right to file a divisional application directed to the cancelled claims.

Claims 9 and 11 have been amended to include all the features of cancelled claim 1. Accordingly, claims 9 and 11 are now independent. Dependent claims 2-8 also have been amended to change their dependency from claim 1 to claim 9. New dependent claims 30-36, which depend from claim 11, parallel dependent claims 2-8.

Notwithstanding the cancellation of claims 1 and 14-29 and the amendment to claims 2-8 that render all the §102(e) and §103(a) rejection moot, Applicant respectfully traverses the rejections at least for the reasons provided below.

With respect to the §102(e) rejection of claims 1-8 over Pappas, the Examiner alleges that the reference teaches a feeding assembly 500 unreleasably coupled to a feed reservoir 50. However, Pappas specifically teaches a drinking aid with a passage for dispensing a fluid detachably secured to a fluid container, as recited in, e.g., col. 3, lines 6-7, col. 9, lines 60-61, and col. 11, line 60. There is no teaching, disclosure or suggestion in Pappas for a coupler for unreleasably coupling a feeding assembly to a feed reservoir or for a non-reusable feed

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dispenser. Applicant would request the Examiner to show the specific text in Pappas which discloses Applicant's claimed feature should the Examiner maintain this allegation.

With respect to the §102(b) rejection of claims 15, 16, 20 and 24 over Salvia, the reference merely discloses a feeding valve 9 attached to fitment 15 with the use of two detents 21a and b on the fitment and a boss 23 on the valve. There is no disclosure, teaching or suggestion of a feeding assembly adapted to unreleasably engage a feed reservoir and prevent the reuse thereof as recited in Applicant's claims 15, 16, 20 and 24. Applicant would request the Examiner to show the specific text in Salvia disclosing Applicant's claimed feature should the Examiner maintain the allegation that Salvia teaches the above-discussed feature.

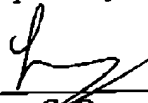
Consequently, since each and every feature of the present claims is not taught (and is not inherent) in the teachings of Pappas or Salvia, as is required by MPEP Chapter 2131 in order to establish anticipation, the rejection of claims 1-8 and 15, 16, 20 and 24, under 35 U.S.C. §102(b) and (e), as anticipated by Pappas or Salvia is improper.

With respect to the §103(a) rejections, Applicant respectfully submits that the arguments set forth above in relation to the §102(e) and (b) rejections are also applicable to the §103(a) rejections. That is, as Pappas and Salvia are both deficient in teaching, disclosing or suggesting a feeding assembly unreleasably coupled or engaged with a feeding reservoir to prevent the re-use thereof, their application in the §103(a) rejections is improper.

In view of the above, Applicant respectfully requests reconsideration and withdrawal of all pending rejections.

The present application is now believed to be in condition for allowance and should be passed to issue. However, if a further conference would expedite prosecution of the instant application, the Examiner is hereby invited to telephone the undersigned to arrange such a conference.

Respectfully submitted,



Luan C. Do
Registration No. 38,434

NIXON PEABODY LLP
Suite 900, 401 9th Street, N.W.
Washington, D.C. 20004-2128
(202) 585-8000
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